

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Andrew Ridge	Team: Squad #5	CCRB Case #: 201802767	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 04/01/2018 4:43 PM	Location of Incident: 906 Morris Avenue	Precinct: 44	18 Mo. SOL 10/1/2019	EO SOL 10/1/2019	
Date/Time CV Reported Mon, 04/02/2018 9:45 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 04/10/2018 11:13 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Elias Vazquez	03818	949762	044 PCT
2. POM Alfred Maldonado	7409	955117	044 PCT
3. POM Victor Cruz	22651	957501	PB ERS

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jorge Flores	07680	954816	044 PCT
2. POM Vincent Mauro	18615	958892	044 PCT
3. POM Luis Marte	24133	941288	044 PCT
4. POM Ali Hussain	17006	960697	044 PCT
5. POM Michael Sambrato	06414	961232	044 PCT
6. POM James Ferrufino	06552	960538	044 PCT
7. POM Roosevelt Monestime	11216	960959	044 PCT
8. POF Gina Panettiere	15316	961063	044 PCT
9. POM Thomas Gerlich	08140	963536	044 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Alfred Maldonado	Force: Police Officer Alfred Maldonado used physical force against § 87(2)(b)	
B.POM Victor Cruz	Force: Police Officer Victor Cruz used physical force against § 87(2)(b)	
C.SGT Elias Vazquez	Abuse: Sergeant Elias Vazquez forcibly removed § 87(2)(b) to the hospital.	

### Summary of Complaint

On April 2<sup>nd</sup>, 2018, § 87(2)(b) filed this complaint with IAB via phone. IAB forwarded the complaint to the CCRB, where it was received on April 10<sup>th</sup>, 2018.

On April 1<sup>st</sup>, 2018, at approximately 4:43PM, Police Officers Alfred Maldonado and Victor Cruz of the 44<sup>th</sup> Precinct used physical force against § 87(2)(b) in front of and inside 906 Morris Avenue in the Bronx (**Allegations A and B: Force**, § 87(2)(g)). After this, Sergeant Elias Vazquez of the 44<sup>th</sup> Precinct forcibly removed § 87(2)(b) to Lincoln Medical Center (**Allegation C: Abuse of Authority**, § 87(2)(g)).

Video surveillance footage of the incident from 906 Morris Avenue and body-worn camera video footage from several officers capture large portions of the incident.

### Findings and Recommendations

**Allegation A—Force: Police Officer Alfred Maldonado used physical force against § 87(2)(b)**

**Allegation B—Force: Police Officer Victor Cruz used physical force against § 87(2)(b)**

**Allegation C—Abuse of Authority: Sergeant Elias Vazquez forcibly removed § 87(2)(b) to the hospital.**

§ 87(2)(b) provided the following testimony: On April 1<sup>st</sup>, 2018, at approximately 4:43PM, § 87(2)(b) entered the Court Side Deli located at 906 Morris Avenue in the Bronx to buy a soda. (BR01). A few minutes after entering the deli, § 87(2)(b) was standing in front of the counter when PO Maldonado simultaneously placed him in handcuffs and pushed § 87(2)(b)'s chest against the counter. § 87(2)(b) could not remember the incident well, and so could not further describe what happened. Eventually officers forcibly removed § 87(2)(b) to § 87(2)(b). § 87(2)(b) alleged he sustained spinal cord dislocation and contused ribs resulting from PO Maldonado pushing him.

The ambulance call report prepared for § 87(2)(b) indicated that he suffered from alcohol intoxication. (BR02, privileged document). § 87(2)(b) complained of ribcage pain but made no mention of back pain.

§ 87(2)(b) did not release § 87(2)(b)'s medical records to the CCRB because § 87(2)(b) refused to provide authorization pursuant to the Sensitive Information Section 9a of the HIPAA forms. (BR03).

§ 87(2)(b)'s medical records from the § 87(2)(b) from April 3<sup>rd</sup>, 2018, indicated that § 87(2)(b)'s chief complaint was of rib pain. (BR04, privileged document). § 87(2)(b) denied any other injuries. § 87(2)(b) was diagnosed with Pleurodynia, which consists of chest or abdominal pain. There was no mention of a spinal cord injury.



201802767\_20180611\_1900\_DM.mp4

Exterior video surveillance footage from the deli captures § 87(2)(b) entering the deli twice. (BR05). Both times shortly after § 87(2)(b)'s entry, PO Maldonado gently pushes § 87(2)(b).

§ 87(2)(b) out of the deli. At the 00:58 minute mark, following his first two attempts to enter the deli, § 87(2)(b) again returns to the door. At the 01:05 minute mark, PO Maldonado takes hold of both of § 87(2)(b) shoulders, exits the deli, and in so doing pushes § 87(2)(b) away from the deli and out of view of the camera. After this, PO Maldonado re-enters the deli. At the 01:16 minute mark, § 87(2)(b) attempts to enter the deli for a fourth time. At the 01:17 minute mark, PO Maldonado takes hold of § 87(2)(b) and pulls him into the deli.



201802767\_20180611\_1909\_DM.mp4

Exterior video surveillance footage from the deli capturing another angle shows that at the 00:53 minute mark, when PO Maldonado pushes § 87(2)(b) out of the deli for the third time, PO Maldonado brings § 87(2)(b) to the corner of the deli where it meets the sidewalk of East 162<sup>nd</sup> Street. (BR06).



201802767\_20180611\_1918\_DM.mp4

Interior video surveillance footage from the deli captures PO Maldonado and PO Cruz inside the deli speaking with a male individual, identified from an Aided report as § 87(2)(b) (BR07-08). The Aided report, prepared by PO Maldonado, indicates that § 87(2)(b) was ultimately removed to the hospital as he smelled of alcohol, attempted to harm himself, and verbally threatened others. At the 00:17 minute mark of the video footage from the interior of the deli, § 87(2)(b) enters the deli. At the 00:34 minute mark, PO Maldonado and PO Cruz take hold of § 87(2)(b)'s arms and pull them behind his back. At the 00:43 minute mark, PO Maldonado escorts § 87(2)(b) out of the deli. Following § 87(2)(b)'s additional two attempts to enter the deli, PO Maldonado pulls § 87(2)(b) into the deli at the 01:16 minute mark and brings § 87(2)(b) up against the front window. At the 01:23 minute mark, PO Cruz joins PO Maldonado. At the 01:26 minute mark, § 87(2)(b) moves, causing PO Maldonado and PO Cruz to move backward in response. At the 01:28 minute mark, PO Maldonado and PO Cruz move § 87(2)(b) to the left and push him up against the counter. At the 01:30 minute mark, PO Maldonado brings § 87(2)(b)'s hand behind his back and § 87(2)(b) stops moving.



201802767\_20180612\_1046\_DM.mp4

Another interior camera captures PO Maldonado and § 87(2)(b) approximately one minute after the conclusion of the third video. (BR09). At the 00:02 minute mark, § 87(2)(b) attempts to turn around. PO Maldonado pushes § 87(2)(b) against the counter twice and then holds him in place.



201802767\_20180514\_1701\_DM.AVI

Body-worn camera video footage captured by eight officers on scene does not capture any force used against § 87(2)(b) save for a short video captured by PO Maldonado. (BR10). The video footage captures PO Maldonado pushing § 87(2)(b) out of the deli. For the majority of the video there is no sound.



201802767\_20180802\_1815\_DM.mp4

In PO Cruz's body-worn camera video footage, § 87(2)(b) argues with several officers who inform § 87(2)(b) that he is intoxicated and that he was with them because he would not leave the deli when asked. § 87(2)(b) confirms that he is intoxicated. (BR11).

An Aided report prepared by PO Cruz for § 87(2)(b) indicated that § 87(2)(b) stated he consumed alcohol. (BR12). PO Cruz noted that § 87(2)(b) verbally threatened other customers.

The Resource Recap Log, Event documentation, and the Roll Call indicated that Sgt. Vazquez was the only supervisor to respond, and thus would have been in the position to decide whether to remove § 87(2)(b) to the hospital. (BR13-15). Sgt. Vazquez's memo book confirms that he arrived on scene. (BR16).

NYPD Patrol Guide Procedure 221-02 outlines the following: officers must "apply no more than the reasonable force necessary to gain control" in police incidents. (BR17).

§ 87(2)(g)

[REDACTED]

NYPD Patrol Guide Procedure 221-13 outlines the following: "An emotionally disturbed person (EDP) is someone who appears to be mentally ill or temporarily deranged and is conducting himself in a manner which a police officer reasonably believes is likely to result in serious injury to himself or others. An EDP may be taken into protective custody when he is conducting himself in a manner likely to result in serious injury to himself or others." (BR18).

§ 87(2)(g)

[REDACTED]

### **Mediation, Civil, and Criminal Histories**

- This case was suitable for mediation. § 87(2)(b) did not respond to numerous contact attempts made to offer mediation following his interview.

- The NYC Office of the Comptroller responded to a request on July 19<sup>th</sup>, 2018, indicating that no notice of claim was filed by § 87(2)(b) regarding this incident. (BR20).
- § 87(2)(b)  
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### **Civilian and Officer CCRB Histories**

- This is the first complaint involving § 87(2)(b) (BR22).
- PO Maldonado has been a MOS for 5 years, and this is the first CCRB complaint filed against him. (BR23).
- PO Cruz has been a MOS for three years, and this is the third CCRB complaint filed against him. (BR24). The previous two complaints generated a total of three allegations, one of which was Force-Physical Force. The CCRB did not substantiate any of these allegations and the NYPD has not imposed any discipline pursuant to these CCRB cases.
- Sgt. Vazquez has been a MOS for eight years, and this is the fourth complaint filed against him. (BR19). The previous three complaints generated a total of seven allegations, § 87(2)(g) \_\_\_\_\_ The third complaint made against Sgt. Vazquez, Case 201702334, included an allegation for Discourtesy-Word, and was disposed of as Substantiated (Command Lvl Instructions). The NYPD has not imposed any discipline pursuant to these CCRB cases.

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Squad No.: 5

Investigator:	_____ Signature	_____ Print Title & Name	_____ Date
Squad Leader:	_____ Signature	_____ Print Title & Name	_____ Date
Reviewer:	_____ Signature	_____ Print Title & Name	_____ Date